

RD AN No. 4149 (1980-D)
March 10, 2006

TO: All State Directors
Rural Development

ATTENTION: Rural Housing Program Directors,
Guaranteed Rural Housing Coordinators,
Community Development Managers, and
Rural Development Managers

FROM: Russell T. Davis *(Signed by Russell T. Davis)*
Administrator
Housing and Community Facilities Programs

SUBJECT: Eligibility of Non-U.S. Citizens for Single Family Housing
Guaranteed Loan Program Assistance

PURPOSE/INTENDED OUTCOME:

This Administrative Notice (AN) is intended to furnish guidance concerning what documentation U.S. non-citizens must supply in order to be considered for a loan note guarantee under the Single Family Housing Guaranteed Loan Program (SFHGLP).

In the near future, Agency personnel will be able to access the Systematic Alien Verification for Entitlements (SAVE) database maintained by the Citizenship and Immigration Service (CIS). In most cases, use of SAVE will eliminate the need to obtain the documentation described in this AN. SAVE will also provide same-day responses concerning the immigration status of non-U.S. citizens. Instructions on how to use SAVE will be issued within the next 180 days.

COMPARISON WITH PREVIOUS AN:

This AN replaces RD AN No. 4042 which was dated January 18, 2005.

EXPIRATION DATE:
March 31, 2007

FILING INSTRUCTIONS:
Preceding RD Instruction 1980-D

BACKGROUND:

RD Instruction 1980-D, section 1980.346(c), limits eligibility for individuals who receive a loan note guarantee under the SFHGLP to those who:

reside as a citizen in any of the 50 States, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Marianas, Federated States of Micronesia, and the Republics of the Marshall Islands and Palau, or a noncitizen who resides in one of the foregoing areas after being legally admitted to the U.S. for permanent residence or on indefinite parole.

The term “indefinite parole” is no longer a term used by the CIS, formerly known as the Immigration and Naturalization Service (INS). Instead, under Section 401 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (8 U.S.C. Section 1611) lenders and the Agency must determine whether the applicant for a guaranteed loan is a U.S. citizen, a U.S. non-citizen national, or a “qualified alien.”

Generally, a U.S. non-citizen national is a person born in American Samoa or Swains Island on or after the date the U.S. acquired American Samoa or Swains Island, or a person whose parents are U.S. non-citizen nationals. Typical evidence of the relatively uncommon status as a non-citizen national includes a birth certificate or passport, and persons who are non-citizen nationals are eligible for consideration under the SFHGLP.

A “qualified alien” is defined under PRWORA (8 U.S.C. Section 1641) as:

- 1) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act;
- 2) an alien who is granted asylum under section 208 of such Act;
- 3) a refugee who is admitted to the United States under section 207 of such Act;
- 4) an alien who is paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year;
- 5) an alien whose deportation is being withheld under section 243(h) of such Act; or
- 6) an alien who is granted conditional entry pursuant to section 203(a)(7) of such Act as in effect prior to April 1, 1980;
- 7) an alien who is a Cuban/Haitian Entrant as defined by section 501(e) of the Refugee Education Assistance Act of 1980; or
- 8) An alien who has been battered or subjected to extreme cruelty under section 431 of the Immigration and Nationality Act (INA).

The Department of Housing and Urban Development (HUD) will insure loans to non-permanent resident aliens provided that the borrower occupies the property as a residence, has a social security number, and is eligible to work in the United States. Despite HUD’s operating policy in this regard, the USDA Office of the General Counsel has determined that the SFHGLP may not permit loans to be guaranteed unless the non-permanent alien is deemed to be a qualified alien.

A list of documentation serving as evidence that a non-permanent alien is a qualified alien follows below.

IMPLEMENTATION RESPONSIBILITIES:

Lenders must secure evidence that non-citizens who apply for a guaranteed loan are qualified aliens. Evidence confirming qualified alien status may be obtained directly from the CIS or by securing copies of the documentation further described below. When combined with satisfactory proof of identity, such evidence is adequate to establish that the applicant is a qualified alien under PRWORA.

Documentation that a Non-Citizen is a Qualified Alien

Any of the following documents are acceptable evidence of eligible immigration status:

1. CIS Form I-551, "Alien Registration Receipt Card" (for permanent or conditional resident aliens);
2. In some cases, the CIS will stamp a page of the alien's passport with the following information:

PROCESSED FOR I-551
TEMPORARY EVIDENCE OF
LAWFUL ADMISSION FOR
PERMANENT RESIDENCE
VALID UNTIL _____
EMPLOYMENT AUTHORIZED

In these cases, the CIS official will handwrite the expiration date of the stamp in the blank space after the words "valid until", and may also handwrite the date of issuance above the stamp. Whenever this documentation is submitted as evidence of qualified alien status, a copy of the passport, including the stamped page, should be sent to the nearest CIS District Office along with CIS Form G-845S, "Document Verification Request." The CIS will return CIS Form G-845S to the requesting office with an indication whether the document is valid and relates to a permanent or conditional resident alien. CIS Form G-845S is available online at the following address: <http://uscis.gov/graphics/formsfee/forms/files/g-845s.pdf>

3. CIS Form 1-688B, "Employment Authorization Card," which must be annotated "Provision of Law" followed by one of the provisions listed below:
 - 274a.12(c)(11),
 - 274a.12(a)(1),
 - 274a.12(a)(3),
 - 274a.12(a)(4),
 - 274a.12(a)(5),
 - 274a.12(a)(10).

4. CIS Form I-766, "Employment Authorization Document" annotated as follows:
 - A3, or
 - A5, or
 - A10.
5. CIS Form I-571, "Refugee Travel Document";
6. CIS Form I-94, Arrival-Departure Record, with one of the following annotations:
 - "Admitted as Refugee Pursuant to Section 207";
 - "Section 208" or "Asylum";
 - "Section 243(h)" or "Deportation stayed by Attorney General";
 - "Paroled Pursuant to Section 212(d)(5) of the INA";
 - "Admitted under Section 203(a)(7) of the INA."
7. If Form I-94 is not annotated, it will still be acceptable evidence of eligible immigration status if it is accompanied by one of the following documents:
 - A final court decision granting asylum (but only if no appeal is taken);
 - A letter from a CIS asylum officer granting asylum (if application is filed on or after October 1, 1990) or from a CIS district director granting asylum (if application was filed before October 1, 1990);
 - A court decision granting withholding of deportation; or
 - A letter from an asylum officer granting withholding of deportation (if application filed on or after October 1, 1990).
8. A receipt issued by the CIS indicating that an application for issuance of a replacement document in one of the above-listed categories has been made and the applicant's entitlement to the document has been verified; or
9. Other acceptable evidence. If other documents are determined by the CIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the Federal Register.

If the documentation described above appears to be altered or counterfeit, or if the alien presents unfamiliar CIS documentation, the Agency should complete CIS Form G-845S, "Document Verification Request," and forward it to the nearest CIS District Office for review. A copy of CIS Form G-845S can be found on the internet at the following location <http://uscis.gov/graphics/formsfee/forms/files/g-845s.pdf>. Fully readable copies (front and back) of the original immigration documents should be attached to the CIS Form G-845S when it is submitted to the CIS District Office. The original documents should be returned to the non-citizen. There is a 10 business day CIS processing period. The location of CIS District Offices may be found on the internet at <http://uscis.gov/graphics/fieldoffices/index.htm>.

Should there be any comments or questions concerning this AN, please contact Joaquín Tremols at (202) 720-1465 or joaquin.tremols@wdc.usda.gov.